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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Shawn D. Cartwright

Serial No.: **09/676,448**

Group No.: **3621**

Filed: **September 29, 2000**

Examiner: **Calvin Loyd Hewitt II**

For: **SYSTEM AND METHOD FOR OBTAINING ADVANTAGES AND
TRANSACTING THE SAME IN A COMPUTER GAMING
ENVIRONMENT**

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

APPELLANT'S BRIEF UNDER 37 C.F.R. § 1.192

This brief is in support of Appellant's appeal from the rejection of claims 47, 48, 50, 52, 53, 55-61, 63-65, 67, and 68, dated March 18, 2003. A Notice of Appeal was filed on April 9, 2003.

A. REAL PARTY IN INTEREST

The inventor in the present application has not assigned his interest.

B. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

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C. STATUS OF CLAIMS

1. Claims 47, 48, 50, 52, 53, 55-61, 63-65, 67, and 68 are pending. Claims 47, 48, 50, 52, 53, 55-61, 63-65, 67, and 68 are reproduced in Appendix A, attached hereto. All claims (47, 48, 50, 52, 53, 55-61, 63-65, 67, and 68) stand rejected under 35 U.S.C. § 103(a), and are the subject of the present appeal.

2. Claims 47, 48, 50, 52, 53, 55-61, 63-65, 67, and 68 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over United States Patent 6,119,229 to *Martinez et al.* in view of the Happy-puppy Website www.happypuppy.com and further in view of United States Patent 6,385,592 to *Angles et al.*.

D. STATUS OF AMENDMENTS

An amendment after FINAL is filed herewith to correct ministerial errors in claim dependencies.

E. SUMMARY OF THE INVENTION

The present invention provides, *inter alia*, systems and methods for the integration of a mechanism in a computer game environment that, when invoked through a transaction (e.g. monetary), effects the circumvention of one or more rules of the computer game. The mechanism is seamlessly integrated within the game environment cooperating with the existing rules and framework of the computer game. In operation, a participating user, operating the computer game, is offered a choice to invoke the mechanism through a defined transaction. When invoked, the mechanism cooperates with the computer game allowing the participating user to circumvent one or more of the computer game rules through a monetary transaction- i.e., to allow participating users to pay to cheat one or aspects of a computer game.

Furthermore, the mechanism performs bill processing and payment reconciliation. Specifically, the mechanism keeps track of when the mechanism is being invoked and by whom. Such information is then used by the mechanism to generate bills for each of the participating users and is capable of reconciling the bill in real time with the user. In this context, the present

invention discloses system and methods wherein participating users establish user accounts having data indicative of a participating user's form of payment. As part of bill reconciliation, the present invention references participating users' accounts to obtain the payment information. The participating users' payment information is then used to realize payment for the generated bills.

F. ISSUES

1. Whether claims 47, 48, 50, 52, 53, 55-61, 63-65, 67, and 68 patentably define over United States Patent 6,119,229 to *Martinez et al.* in view of the Happy-puppy Website www.happypuppy.com and further in view of United States Patent 6,385,592 to *Angles et al.*.

G. GROUPING OF CLAIMS

Claims 47, 48, 50, 52, 53, 55-61, 63-65, 67, and 68 stand or fall together.

H. EXAMINER CONDUCT

Responsive to the first Official Action dated March 15, 2002, on April 8, 2002, an in-person interview was conducted with Examiner Calvin Loyd Hewitt, II at the U.S.P.T.O.. During this interview, Appellant contends that Examiner Hewitt showed a deep personal dislike to Appellant's invention. The Examiner's sentiment was clearly expressed as the Examiner used language to the effect of 'you can't get a patent on this' and 'I've seen my little brother do this.' Moreover, during this interview, when Appellant offered a basis to traverse the Examiner's rejections, instead of pointing to the art of record to support the claim rejection(s), the Examiner would pull out of the air, assert, and rely on art that was not part of the record. The Examiner went so far that, at one point during the in-person interview, the Examiner went to his computer and retrieved new art as a basis for rejecting the claims. A copy of this art was not provided to Appellant for consideration, rather, Appellant was requested to stand over the Examiner's shoulder while the Examiner read off his computer monitor what the Examiner considered to be relevant portions from the new art. Appellant respectfully submits that such conduct is not appropriate.

Moreover, as the prosecution history indicates, two additional examiner interviews (telephonic) were conducted to obtain clarification from the Examiner, since the Examiner's rejections, and the prosecution history demonstrates, were less than fully articulated. These interviews resulted as did the first, wherein the Examiner expressed his dislike of Appellant's invention. Appellant was not deterred by the Examiner's conduct, rather, Appellant, continually acted in good faith to bring the claims to issuance by offering a number of claim amendments. However, with each submission, Appellant's amendments were received with the same sentiment of dislike. Appellant respectfully submits that such personal bias does not belong in patent examination.

I. ARGUMENT

Claims 47, 48, 50, 52, 53, 55-61, 63-65, 67, and 68 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,119,229 to *Martinez et al.* in view of www.happypuppy.com and further in view of United States Patent No. 6,385,592.

Concerning independent claims 47, 53, 55 and 63, in the rejection, the Examiner states that:

As per claims 47, 5, and 63, *Martinez et al.* teach a computer transaction system for obtaining digital objects within a gaming environment over a communications network. *Martinez et al.* also teach:

- tracking, tallying, and storing the executed transactions relating to ...

- receiving requests for, obtaining, accessing (through the execution of a transaction) and activating data that can be used within a gaming environment

- transaction related billing and communicating bill amounts to a cooperating computing environment

- billing on a per user basis

- displays account in real time while game is being played

Martinez et al. teach that every transaction is logged and that log can be used to restore databases should data become corrupt or lost. Hence, it is at least obvious that transactions are identified with the game in order to properly associate users with their objects. *Martinez et al.* also recite a plurality of billing models. Therefore it would have been obvious to one of ordinary skill to manage accounts on a per-transaction or per-user basis. Regarding billing based on the set of rules being accessed it would have been obvious to one of ordinary skill to charge different fees for the different game usable data offered by the *Martinez et al.* system (e.g. spells, abilities, ... etc.).

However, *Martinez et al.* not explicitly recite obtaining a second set of rules that allows for cheating. *Happy Puppy Cheats is a website that allows users to obtain computer game cheats while Angles et al. teach a method and system for integrating user specific advertisements (e.g. offers) into a gaming environment. Angles also teaches a plurality of billing and payment models, such as each time a rule is triggered (i.e. advertisement is displayed). Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Martinez et al., Happy Puppy Cheats and Angles et al. in order to deliver customized advertising and allow users to make purchases in response to said advertisement in an interactive environment such as interactive games.*

Final Rejection of March 18, 2003, at pages 3-5.

Appellant respectfully submits that the *Martinez et al.*, Happy Puppy Cheats Website, and *Angles et al.* references, alone, or in combination do not teach all of the limitations of Appellant's invention and, moreover, do not teach or suggest the requisite motivation to combine

the references in the manner combined by the Examiner. Specifically, this rejection should be reversed for the following reasons.

1. ***Martinez et al. teaches away from cheating and therefore lacks any motivation to combine with references that offer methods of cheating***

Regarding *Martinez et al.*, the Examiner places great credence on the disclosure by *Martinez et al.* in column 3 lines 1-50, column 4, lines 32-64, column 8, lines 13-48, and column 29, lines 29-60, suggesting that *Martinez et al.* allegedly teach “a computer transaction system for obtaining digital objects within a gaming environment over a communications network.” Appellant, admittedly, reads *Martinez et al.* in a similar light but respectfully submits that *Martinez et al.*, and as the Examiner states above, ***does not teach the transaction of cheating in a computer game environment.*** To the contrary, *Martinez et al.*, explicitly teaches away from allowing cheating or transacting cheating in a computer game environment.

Specifically, Appellant points to cols. 27 and 29 of the *Martinez et al.* reference for such explicit recitation. In col. 27, line 34, *Martinez* recites “It is desirable to resist several kinds of cheating”. Moreover, in the same column, line 65, “... the Transactor system to resist unauthorized creation, queries, and unwanted transfers at all times ... the cheating to be caught later.” Not only does *Martinez et al.* teach away from promoting cheating, it actually teaches a system to *monitor and detect* cheating which is counter to the intended use of Appellant’s invention, which is intended to promote and transact cheating. The teaching of detecting and preventing cheating is further described , in col. 29, line 40, wherein, “[the transactor system] will try to guarantee that no cheating done in the local game ... can allow cheating in the global game.” Since, *Martinez et al.* explicitly teaches away from allowing cheating or transacting cheating in a game, such teachings supports the conclusion that *Martinez* lacks **any motivation to combine** with a reference that teaches cheating in a gaming environment

Accordingly, Appellant respectfully submits that it is just unreasonable to think that one skilled in the art would look at *Martinez et al.* for teachings concerning cheating and the transaction of cheating.

2. The Examiner's combination of the Happy Puppy Cheats Website with *Martinez et al.* is improper and unsupported

The Examiner contends that Happy Puppy Cheats (www.happypuppy.com) is a Website that allegedly allows users to obtain computer game cheats. Applicants, admittedly, view the Happy Puppy Cheats Website as source of information pertaining to cheats for use in computer game environments. Appellant respectfully submits that the Happy Puppy Cheats Website does not teach all of the limitations of Appellant's invention. The Happy Puppy Cheats Website specifically fails to teach an *integrated mechanism within a game, having a first set of rules, that provides a second set rules that allows for the first set of rules to be cheated*. As is seen in Figures 1 and 2 below, the Happy Puppy Website offers static content providing instructions to users of how to cheat a particular game. This information is just that, information and is not integrated within the computer game.

Moreover, Appellant contends that there is **no motivation or suggestion to combine the content** found in the Happy Puppy Website with the *Martinez et al.* reference to teach Appellant's claimed invention. Happy Puppy Cheats Website discloses the practice where the gamer is left to input a combination of information to the computer game to realize the desired cheat. Moreover, the cheats found at the Happy Puppy Website are not offered to users as part of a transaction wherein consideration is exchanged. Contrary to the teaching of Appellant's invention, the cheats are offered to participating users at no cost. For these reasons, Appellant respectfully submits that the Happy Puppy Website lacks the motivation or suggestion to combine its teachings with the *Martinez et al.* reference which Appellant reads to be a computer game environment which has safeguards against cheating (i.e. thereby not condoning cheating) and wherein objects are integrated and wherein objects are transacted for some consideration.

It is just not reasonable to think that one of ordinary skill in the art would turn to the teachings found in the Happy Puppy Website to integrate and transact cheats in a computer game.

Figure 1: Happy Puppy Website Screenshot – Cheats Available

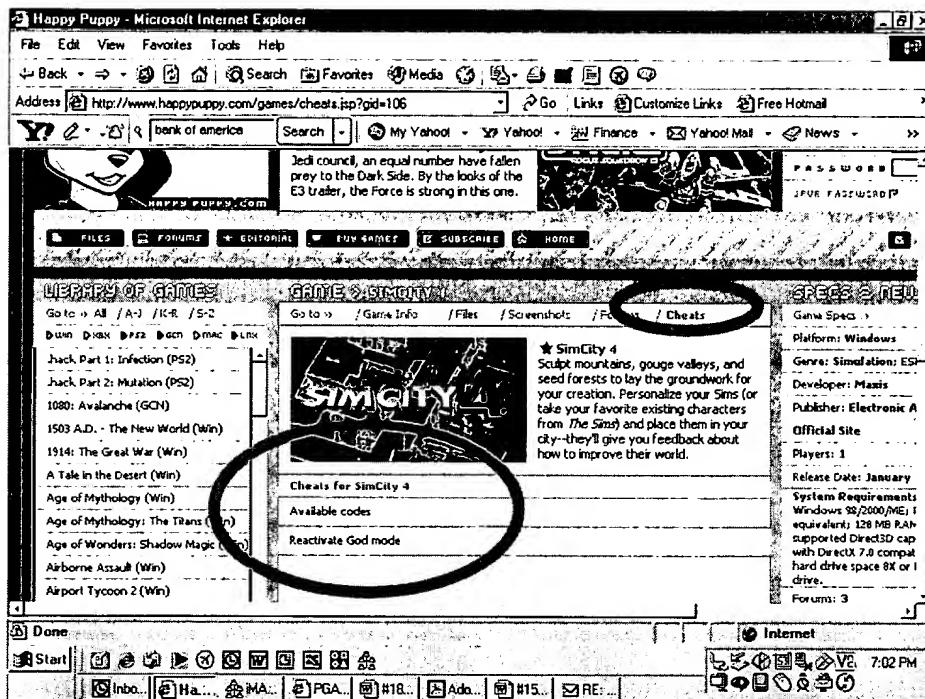
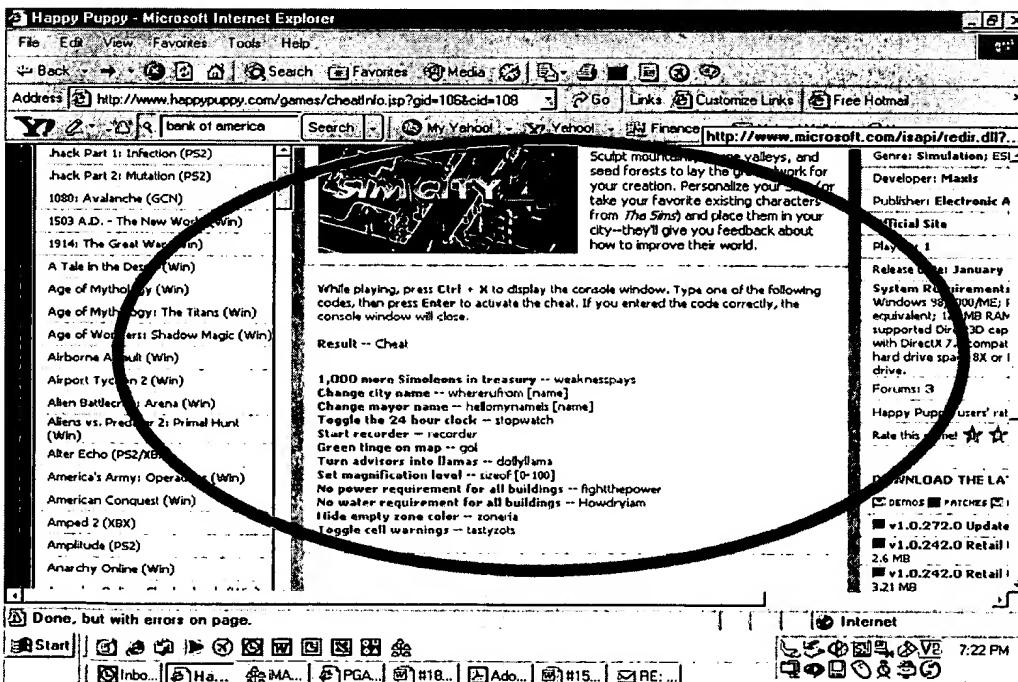


Figure 2: Happy Puppy Website Screenshot - Instructions



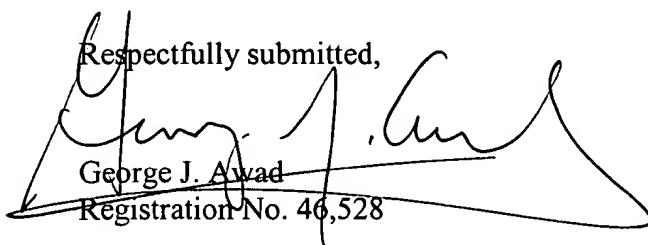
3. *Angles et al.* fails to cure the deficiencies of *Martinez et al.* and *Happy Puppy*

Appellant is confused why the Examiner continues to assert the *Angles et al.* reference against Appellant's pending claims since Appellant has cancelled all claims pertaining to interactive advertisements. As noted above, the Examiner offers the *Angeles et al.* reference as allegedly teaching a method and system for integrating user specific advertisements (e.g. offers) into a gaming environment. The Examiner also contends that *Angles et al.* also teaches a plurality of billing and payment models, such as each time a rule is triggered (i.e. advertisement is displayed). Appellant does not reach the teachings of *Angeles et al.* since the Appellant has cancelled, by amendments found in the prosecution history, any claims to interactive advertisements. Accordingly, Appellant respectfully submits that the assertion of the *Angeles et al.* reference is improper and respectfully submits that the *Angles et al.* reference be withdrawn from consideration.

J. CONCLUSION

For the foregoing reasons, Appellant submits that the inventions recited in claims 47, 48, 50, 52, 53, 55-61, 63-65, 67, and 68 fully comply with the requirements of 35 U.S.C. § 103(a). Appellant therefore requests that this patent application be remanded to the Examiner with an instruction to both withdraw the rejections for alleged unpatentability and allow the appealed claims.

Respectfully submitted,
George J. Ayad
Registration No. 46,528



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WOODCOCK WASHBURN LLP
One Liberty Place - 46th Floor
Philadelphia, PA 19103
(215) 568-3100

APPENDIX A***Claims on Appeal***

47. In a game having a set rules that is played via a computer, a method for cheating comprising the steps of:

 integrating within the game a mechanism providing a second set of rules, wherein the second set of rules allows for the set of rules to be cheated,
 wherein the second set of rules is only accessed through a transaction entailing the exchange of consideration;
 receiving a request for access to the second set of rules; and
 executing the transactions resulting from the received requests.

48. The method as recited in claim 47, further comprising:
 tracking the executed transactions.

50. The method as recited in claim 49, wherein the step of tracking the executed transactions comprises the steps of:

 tallying the number of executed transactions; and
 storing the number of executed transactions.

52. The method as recited in claim 50, further comprising:
 associating bill amounts for each instance the second set of rules is accessed, wherein the bill amounts depend on which rule of the second set of rules is being accessed; and

aggregating the bill amounts based on the tallied executed transactions.

53. A computer readable medium having computer readable instructions to instruct a computer to perform the steps of claim 47.

55. In a game played via a computer having a set of rules, a module allowing for the cheating of the game through the execution of a second set of rules such that access to the second set of rules is only accomplished through a transaction wherein consideration is exchanged comprising:
an integration object, the integration object providing seamless integration between the module and the game such that the second set of rules operate in the game to allow cheating of the set of rules; and
a transaction object, the transaction object transacting instances where the second set of rules are accessed.

56. The module as recited in claim 55, further comprising a communication object, the communication object having at least one instruction to instruct the game to communicate information representative of cheating operations to a cooperating computing environment.

57. The module as recited in claim 56, wherein the communication of the cheating operations information is communicated over a communications network.

58. The module as recited in claim 57, wherein the communication network comprising any of fixed wire and/or wireless LAN, fixed wire and/or wireless WAN, fixed wire and/or wireless intranet, fixed wire and/or wireless extranet, fixed wire and/or wireless peer-to-peer network, and the fixed wire and/or wireless Internet.

59. The module as recited in claim 55, wherein the transaction object keeps a running tally of executed transactions, associates bill amounts to each transaction, and aggregates the bill amounts for all of the transactions.

60. The module as recited in claim 59, further comprising at least one instruction to instruct the game to communicate the aggregated bill amounts to a cooperating computing environment and/or to a display device.

61. The module as recited in claim 59, wherein the bill amounts are aggregated while the game is being played.

62. The module as recited in claim 61, wherein the bill amounts are aggregated on a user basis.

63. In a computer game having a set of rules, a method to allow cheating through a transaction, wherein the transaction entails the exchange of consideration, comprising:

creating a second set of rules that cheat the game set of rules, wherein access to the second set of rules is only realized through the execution of a transaction; integrating in the computer game the second set of rules, wherein the integrating step entails offering one or more of the second set of rules as the game is being played; receiving requests for access to the second set of rules; and fulfilling the requests.

64. The method as recited in claim 63, further comprising associating a bill amount for obtaining access to one or more of the second set of rules and tallying and performing an accounting of each instance when one or more of the second set of rules is accessed.

65. The method as recited in claim 64, further comprising communicating the accounting to a cooperating computing environment for storage and display.

67. The method as recited in claim 65, further comprising displaying the accounting in real-time as the computer game is being played.

68. A computer-readable medium having computer readable instructions to instruct a computer to perform the steps recited in Claim 63.